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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,556	07/16/2007	Willi Bette	2003P19307WOUS	8585

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

MERCADO, JULIAN A

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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07/07/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,556	Applicant(s) BETTE ET AL.	
	Examiner JULIAN MERCADO	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-25 and 28-31 is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☒ Claim(s) 26 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8-24-2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Remarks

Claims 12-31 are pending.

Information Disclosure Statement

The Information Disclosure Statement (IDS) filed on 8-24-2006 has been considered by the examiner.

Claim Objections

Claims 22, 23, 26 and 27 are objected to because of the following informalities:

1. In claim 22 at line 3, "compressing" requires changing to --compresses--.
2. In claim 22 at line 4, "and operating" requires changing to --an operating--.
3. In claim 23 at line 11, it is suggested to change "liquid separator; and" to --liquid separator--.
4. In claim 26 at lines 2-3, "of the of the" requires changing to --of the--.
5. In claim 27 at line 2, "a operating" requires changing to --an operating--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 12-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the contamination" in line 4. There is insufficient antecedent basis for this limitation in the claim. It is also suggested to relate this contamination to the "impurities" recited in line 2.

Claim 22 in line 5 recites a similar limitation to claim 12 and is rejected on the same grounds.

Claims 13-22 are rejected under 35 U.S.C. 112, second paragraph as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Winsel (U.S. Pat. 3,785,870).

For claims 12-16 and 22 Winsel teaches a method for operating a fuel cell system comprising the steps of supplying a process gas to the fuel cell system via a liquid pump and purifying device (referred to by the patentees as a compound device washing unit) wherein impurities contained in the process gas are removed by an operating liquid of the liquid ring

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pump. See col. 3 line 59 et seq. and col. 4 line 18 et seq. The operation of a fuel cell block is interrupted when a contamination upper limit of the operating liquid is exceeded. See col. 1 lines 47-50. The contamination of the operating liquid is monitored by measuring its conductivity, *inter alia*. See col. 6 line 2 et seq. 14. In measuring its conductivity, the operating liquid is continuously purified while adapting the circulating flow to the output of the fuel cells.

As to the liquid pump being a "ring" pump, this limitation (while considered by the examiner) has not been given patentable weight, as the limitation "ring" defines a *structural* aspect of the pump, while the claims are drawn to a *method* of operation. Notwithstanding, the configuration of a ring-shape for a pump is considered a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that this particular configuration is significant. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

Allowable Subject Matter

Claims 17-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest the instant invention regarding purifying the operating liquid with a purifying device including an ion exchanger.

Claims 23-25 and 28-31 are allowed.

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The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or suggest the instant invention regarding separating the operating liquid via a liquid separator.

Claims 26 and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

/Julian Mercado/
Examiner, Art Unit 1795

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795